IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9738 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

MOHAMMED ABDULAHMED PATEL - Respondent(s)

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Appearance :

MR HARDIK C RAWAL for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 19/07/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the order dated 06.03.1998 passed by the Labour Court, Vadodara, in Reference No.1196 of 1996, whereby the said reference was partly allowed.

2.0 The brief facts of the case are that the respondent herein was working as a Conductor with the petitioner Corporation. It is the case of the petitioner that the respondent had remained absent unauthorizedly during the period from 21.01.1995 to 11.02.1995. Therefore, charge-sheet was issued and departmental inquiry was held against the respondent. Since the charges leveled against him were proved, he was dismissed from service by order dated 29.01.1996. Against the order of dismissal, the respondent approached the Labour Court by way of a reference. The Labour Court, by impugned award, partly allowed the said reference. Hence, this petition.

3.0 I have heard learned counsel for the petitioner and perused the documents placed on record. Though served none appears on behalf of the respondent. From the document placed at Annexure-B to the petition, it appears that the main reason for which the respondent workman had remained absent from duty was ill-health. But, in the departmental inquiry held against him, the charges were proved. However, the Labour Court has granted him reinstatement in service looking to his past service. But, while doing so, it has also awarded 60 per cent back wages instead of imposing some penalty. In my

opinion, the Labour Court, while exercising powers under Section 11(A) of the Industrial Disputes Act, 1947 ought to have imposed some penalty on the respondent. Therefore, the impugned order of the Labour Court is required to be modified by imposing some penalty on the respondent.

4.0 In that view of the matter, this petition is partly allowed. The impugned order of the Labour Court is modified to the extent that the direction qua granting reinstatement in service is confirmed and the direction qua awarding 60 per cent back wages is substituted by imposing a penalty of stoppage of two increments with future effect on the respondent. Since it is stated that the respondent has already been reinstated in service on 13.01.1998, he shall be entitled for all benefits from the date of the publication of the award till he is reinstated in service, after imposing the penalty as aforesaid. The said benefits to be paid within a period of three months from the receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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